

Message Text

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TAGS: PFOR, CFED, SZ (JUDICIAL ASSISTANCE TREATY)

SUBJECT JUDICIAL ASSISTANCE TREATY

1. DURING MAY 30 DISCUSSION OF U.S.-SWISS BILATERAL RELATIONS WITH AMBASSADOR CHARLES MULLER, CHIEF OF THE EUROPEAN AND NORTH AMERICAN DIVISION OF THE FEDERAL POLITICAL DEPARTMENT (FPD), IN WHICH CHARGE PARTICIPATED, ANDERSON OF EUR/CE INQUIRED RE STATUS OF TREATY, NOTING THAT U.S. WAS AWAITING SWISS RESPONSE TO OUR AIDE MEMOIRE AND DRAFT NOTE OF MARCH 13. (BERN 1134.)

2. MULLER SAID FPD HAD A PROBLEM WITH TREATY WHICH HE EXPLAINED AS FOLLOWS:

(A) TREATY AND IMPLEMENTING LEGISLATION (INCLUDING CONTROVERSIAL ARTICLE 26) HAD BEEN PLACED BY GOS IN PARLIAMENTARY RATIFYING MACHINERY LAST DECEMBER ON ASSUMPTION THAT ALL OUTSTANDING QUESTIONS HAD BEEN NEGOTIATED AND RESOLVED. RATIFYING MACHINERY HAS NOW MOVED THROUGH COMMITTEES TO POINT THAT TREATY AND IMPLEMENTING LEGISLATION ARE SCHEDULED FOR FINAL VOTE IN UPPER HOUSE OF PARLIAMENT ON JUNE 18.

(B) FPD IS UNWILLING TO INFORM GOS AT THIS LATE DATE THAT SWISS IMPLEMENTING LEGISLATION POSES PROBLEMS TO USG AND MUST EITHER BE REVISED OR INTERPRETED BY SIDE EXCHANGE OF NOTES. TO DO SO WOULD PROBABLY LEAD TO DEBATE IN WHICH "ALL DOMESTIC POLITICAL VOICES" WOULD BE HEARD.

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NOTING THAT FPD HAD HAD SOME DIFFICULTY GETTING BANKERS

AND OTHER INTERESTED GROUPS TO ACCEPT PRINCIPLE OF TREATY, MULLER SAID PARLIAMENTARY DEBATE AT THIS STATE WOULD CERTAINLY DELAY, AND POSSIBLY JEOPARDIZE, RATIFICATION OF TREATY.

3. MULLER SAID FPD DOES NOT LIKE SOME OF INTRODUCTORY LANGUAGE IN U.S. DRAFT NOTE (SPECIFICALLY ASSERTION THAT "DRAFT SWISS FEDERAL LAW APPEARS INCONSISTENT WITH (SWISS) OBLIGATIONS.") HOWEVER, FPD HAS NO RPT NO PROBLEM WITH SUBSTANCE OF DRAFT NOTE AS CONTAINED PARAS 3 AND 4, BEGINNING "IT IS THE UNDERSTANDING OF MY GOVERNMENT THAT EVEN WHERE" AND ENDING "IN ADDITION, AFTER THE TESTIMONY HAS BEEN TAKEN ETC. ETC.".

4. MULLER SUGGESTED FOLLOWING:

(A) HOLD DRAFT NOTE IN ABEYANCE, AND ALLOW SWISS PARLIAMENTARY MACHINERY TO PROCEED THROUGH TO APPROVAL BY UPPER HOUSE ON JUNE 18.

(B) AFTER PARLIAMENT HAS APPROVED TREATY, EXCHANGE NOTES ALONG LINES OF U.S. DRAFT, ELIMINATING LANGUAGE THAT MIGHT BE CONSIDERED PEJORATIVE. FPD IS HOPEFUL FEDERAL COUNCIL WILL ACCEPT EXCHANGE AS ROUTINE CLARIFICATION WITHOUT REQUIRING REVIEW AND APPROVAL BY PARLIAMENT.

5. IN SUBSEQUENT DISCUSSION BETWEEN EMBOFF AND MULLER'S DEPUTY (CARATSCH) FORMER MADE POINT THAT PROCEDURE SUGGESTED IN PARA (4) ABOVE WOULD DELAY U.S. RATIFICATION PROCESS. CARATSCH WAS INFORMED THAT DEPT CONSIDERS UNDERSTANDINGS EMBODIED IN PROPOSED EXCHANGE OF NOTES TO BE VITAL TO IMPLEMENTATION OF TREATY AND COULD NOT FORWARD TREATY TO WHITE HOUSE UNTIL EXCHANGE COMPLETED. CARATSCH APPRECIATED PROBLEM OF TIMING BUT SAID FPD CONSIDERS THAT PROPOSED PROCEDURE NECESSARY IN ORDER TO AVOID POLITICAL DISCUSSION THAT MIGHT THREATEN FINAL RATIFICATION.
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